



Ninety-Eighth Legislature - Second Session - 2004  
**Introducer's Statement of Intent**  
**LB 1157**

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**Chairperson:** Kermit A. Brashear

**Committee:** Judiciary

**Date of Hearing:** February 6, 2004

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Nebraska has court rulings that indicate that the federal Earned Income Tax Credit (EITC) is not considered exempt under our general public benefits exemption. LB 1157 is needed to remedy this situation.

The classic goals of bankruptcy relief are to provide the debtor with a "fresh start" from overwhelming debts while also ensuring that each creditor receives an equitable share of the debtor's bankruptcy estate. The policies underlying bankruptcy exemptions are to exempt assets that aid the debtor in achieving financial stability in bankruptcy's wake. The oft quoted public policy goals of exemption laws are:

- (1) To provide the debtor with property necessary for survival;
- (2) To protect the dignity and the cultural and religious identity of the debtor;
- (3) To enable the debtor to rehabilitate himself/herself financially and earn income in the future;
- (4) To protect the debtor's family from the adverse consequences of impoverishment; and
- (5) To shift the burden of providing the debtor and the debtor's family with minimal financial support from society to the debtor's creditors.

The federal EITC has two primary underlying policy goals: (1) to offset the burden of social security taxes and (2) to provide an incentive to work. Additionally, the federal EITC, as expanded under the Clinton administration, seeks to increase work among the poor and to simplify the administration of welfare bureaucracy. Generally all public assistance grants, such as ADC, are exempt in bankruptcy under state statutes. Courts in Illinois, Oklahoma, Alabama, Iowa, Idaho, and elsewhere have found EITC monies exempt as earnings, support, or as public benefits. Additionally, a few states have begun to amend their state exemption statutes to specifically exempt federal and state EITC monies in Chapter 7 bankruptcy proceedings.

Thus, legislation to exempt the federal EITC in Chapter 7 bankruptcy proceedings would compliment the underlying policy reasons of each program.

**Principal Introducer:**

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**Senator David Landis**